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May 7, 2008

Via fax to chambers – (212)805-6191

Hon. Barbara S. Jones, U.S.D.J.  
United States Courthouse  
500 Pearl Street  
New York, New York 10007

Re: *United States v. Levar Gayle,*  
07-cr-00003(BSJ)  
**MEMO ENDORSED**

Dear Judge Jones:

Your Honor has appointed me to serve as learned counsel to Mr. Gayle in this matter pursuant to 18 U.S.C. § 3005. I am writing, respectfully, to advise the Court that I will be unable to attend the status conference in this matter scheduled for May 8. I have been on trial before Judge Robinson of this district, in White Plains, since early February in a capital case. The guilt-phase summations and charge are scheduled to occur tomorrow morning, May 8. I regret not being able to appear tomorrow, although Ms. Libesman will be present on Mr. Gayle's behalf.

With regard to scheduling, I am requesting until October 15, 2008 to conduct a preliminary mitigation investigation and make a presentation and/or submission to the United States Attorney regarding capital-authorization. It is my understanding that other death-eligible defendants will be making a similar request.

Your Honor's attention to this request is greatly appreciated.

Respectfully yours,

David A. Ruhnke

cc: All parties via e-mail  
C:\Case Files\Gayle\Judge Jones (status conference) 05-07-2008.wpd

USDC SDNY
DOCUMENT
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Application is granted to all death eligible defendants  
5/8/08 So ordered  
Barbara S. Jones

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